



The Commonwealth of Massachusetts

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

MEMORANDUM

To: Parties to D.T.E. 06-56
Petition for Arbitration of an Interconnection Agreement between Charter Fiberlink
MA-CCO, LLC, and Verizon-Massachusetts

From: Carol Pieper, Arbitrator

Date: July 5, 2006

Re: Notice of Appointment of Arbitrator; Procedural Schedule; Service List; Ground Rules

I. Appointment of Arbitrator

The Department of Telecommunications and Energy ("Department") has received your Petition for Arbitration, and has appointed Carol Pieper as Arbitrator in this matter. The Arbitrator may be contacted for questions at 617-305-3561. The Department has assigned Berhane Adhanom and Stella Finn as Telecommunications analysts to provide technical assistance in this matter.

II. Arbitration Schedule

Below is a schedule for your arbitration proceeding. The schedule includes time for a response from the non-petitioning party to the negotiation, and for continuing negotiations between the parties. The schedule also includes dates for a formal arbitration proceeding. These dates are set to allow the Arbitrator to conduct an efficient and fair arbitration of all issues that cannot be resolved by the parties themselves. The standardized dates are based on a petitioner filing a Petition for Arbitration on the last allowable day (see 47 U.S.C. § 252(b)(1)). The Arbitrator may institute an expedited schedule where the nature of the dispute allows for faster resolution (e.g., where there are few issues in dispute).

The pre-hearing conference and technical session, if needed, will be off-the-record, and will be attended by the Arbitrator and technical staff from the Department. The purpose of the technical session is to allow staff and participants an opportunity to gain a better understanding of technical issues in this arbitration, and perhaps resolve certain technical issues. The purpose of the pre-hearing conference is to complete scheduling, discuss outstanding

procedural matters, and clarify which issues need to be decided in the arbitration. The parties are to file jointly the stipulation of issues resolved. The summary of issues to be resolved should identify the factual and legal issues which require determination. The goal of each of these steps is to aid the parties to narrow and focus the scope of the arbitration.

ARBITRATION SCHEDULE

Request for negotiation received by ILEC	(day 1)	
Petition for arbitration filed with Department	(days 135-160)	June 23, 2006
Negotiation period (40 days)	(days 160-200)	June 23, 2006 to August 2, 2006
Response to petition for arbitration	(day 185)	July 18, 2006
Procedural Conference (via telephone)		July 20, 2006
Arbitration Period (70 days)	(days 200-270)	August 2, 2006 to October 11, 2006
Parties file first Stipulation of issues resolved/ Summary of issues to be resolved	(day 200)	August 2, 2006
Prefiled testimony to be filed	(day 200)	August 2, 2006
<u>Discovery Period</u> (15 days)	(days 200-215)	August 2, 2006 to August 17, 2006
Discovery Complete	(day 215)	August 17, 2006
Parties file second Stipulation of issues resolved/ Summary of issues to be resolved	(day 215)	August 17, 2006
<u>Arbitration Hearing</u>	(day 225)	August 28, 2006
<u>Briefing</u> initial	(day 235)	September 6, 2006
reply	(day 240)	September 11, 2006
<u>Department Order</u>	(day 270)	October 11, 2006

The procedural conference on July 20, 2006, will include a discussion of whether a technical session and evidentiary hearing are required. At that time, parties may also propose revisions to the arbitration schedule as established herein.

III. Service List

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-and-

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Petitioner

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FOR: VERIZON-MASSACHUSETTS, INC.
Respondent

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IV. Ground Rules

Outlined below are ground rules for this arbitration. The purpose of the ground rules is to ensure the efficient conduct of this arbitration. Any request for an exemption from the ground rules must be made to the Arbitrator.

The Arbitrator establishes these ground rules to ensure the efficient conduct of this arbitration. The ground rules may be modified at the discretion of the Arbitrator.

A. Filing of Documents

1. Address of Filings

The original of all filings must be filed with Mary L. Cottrell, Secretary, Department of Telecommunications and Energy, One South Station, Second Floor, Boston, Massachusetts, 02110. The original must be filed with the Department by 5:00 p.m. on the applicable due date.

2. Format

All discovery and record request documents filed with the Department and all documents offered as exhibits shall be accurately punched to fit a standard three-hole binder. All documents shall be accompanied by a cover letter describing the filing and noting the distribution of copies.

Responses to information and record requests shall contain the following information: (1) set and question number; (2) recitation of request; and (3) identity of person who will support the response.

3. Number of Copies

The Department requires documents to be filed in the following manner:

One (1) original addressed to Mary L. Cottrell,
One (1) copy submitted to the Arbitrator, and
One (1) copy submitted to each Department staff member listed on the current distribution list.

4. Electronic Filing

Copies of all nonproprietary documents that are filed with the Department must also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dte.efiling@state.ma.us and carol.pieper@state.ma.us; or (2) on a 3.5" floppy disk or CD-ROM. The text of the e-mail or the disk label must specify: (1) an easily identifiable case caption, (2) docket number, D.T.E. 06-56, (3) name of the party submitting the filing, and (4) title of the document. The electronic filing should also include the name, title, and phone number of a person to contact in the event of questions about the filing. Electronic copies should be written as either Word Perfect, Microsoft Word, or Adobe Acrobat compatible files. Data or spreadsheet responses should be compatible with Microsoft Excel. Documents submitted in electronic format will be posted on the Department's website, <http://www.mass.gov/dte>. Electronic copies must also be provided to all persons on the service list for this proceeding. Parties filing documents containing proprietary or other confidential materials shall submit electronic copies of the redacted public version of such documents. See rules on protected materials below.

B. Exchange of Materials

Parties shall make arrangements for the expeditious exchange of materials, particularly discovery material, through the use of hand delivery, facsimile transmission ("fax"), e-mail, or other speedy means of delivery. Where material is exchanged by means of fax or other electronic means, a follow-up copy of the material must be delivered by mail or by hand. Service is effective upon receipt, not upon mailing.

Where information requests are sent to a party by means of fax, the fax must be accompanied by telephone notification of the transmission. Failure to make prompt telephone notification may affect the deadline for response by the receiving party.

C. Discovery

1. Protected Materials

Where information or material is sought that is considered proprietary or protected by one party, the parties should discuss the use of a non-disclosure agreement before coming to the Arbitrator for protection or compelled submission. The Arbitrator will make a reasonable effort to extend protection where appropriate within the requirements of the law and in

consideration of the policy interests regarding public access. See G.L. c. 25, § 5D; G.L. c. 66, § 10; G.L. c. 4, § 7, cl. twenty-sixth. A party requesting proprietary treatment must submit its request by motion and state the reasons therefore. The party seeking such treatment has the burden to demonstrate that the materials should be afforded the treatment requested in light of the presumption that such information is a public record. See G.L. c. 25, § 5D.

2. Production of Relevant Documents (Discovery)

Parties are required to cooperate in the exchange of information concerning this arbitration. Parties must first attempt resolution of any discovery dispute before coming to the Arbitrator for assistance.

Responses to information requests (discovery) will not be part of the record unless marked and admitted into evidence.

Parties shall make a good faith effort to provide responses to information requests within 10 calendar days of receipt of the request, unless otherwise indicated. Where the computed response date is a Saturday, Sunday, or legal holiday, the response shall be due on the next following Department business day. This time for responses to information requests shall not apply where the established procedural schedule sets a different time.

For purposes of discovery, a document shall be deemed to include writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which data can be obtained, or translated, if necessary, by the respondent through detection devices into reasonably usable form.

D. Hearing Exhibits

1. Format

Documents submitted as exhibits shall be pre-marked by the parties using the following format, in the upper right-hand corner of each exhibit:

D.T.E. 06-56
Exhibit _____
Date _____
Arbitrator: Pieper

Any exhibit offered in this proceeding must contain an internally consistent and usable form of referencing. Documents of three pages or more without a preexisting referencing system must be marked with consecutive page numbers before the document is offered as an exhibit or

before it is otherwise distributed for use in the hearing. Where it is necessary to supply page numbers for an exhibit, the proponent of the exhibit should add the numbers in some way that differentiates the additions from the preexisting text and should identify the method of addition on the record upon presentation for marking. Documents without an acceptable referencing system will not be marked for identification and may not be used at the hearing.

2. Offering of Exhibits

At the arbitration hearing, the proponent of an exhibit must offer the Arbitrator three copies of the proposed exhibit (standard three-hole punch). Nonconforming documents will not be marked. Where material exceeding 25 pages is offered for marking and such material is already in the possession of all parties (e.g., information request responses), the proponent may, no later than 9:00 a.m. on the day the material is to be offered for marking, inform all parties, the Arbitrator, and the Department's Telecommunications Division of the intended use of such material. Nonetheless, the proponent of any such document must provide the Arbitrator with a punched copy for marking.

If only a part of a document is offered for marking and another party wishes to use the omitted part(s) in questioning or on brief, then that party must enter the missing part(s) into the record.

Before the close of hearings, each party that offers exhibits shall submit a listing for those exhibits that presents (1) the exhibit number and (2) a description of the exhibit.

3. Late Filed Exhibits

Exhibits offered after the close of the hearings, if objected to by any party, labor under a heavy burden of untimeliness, for they would not be subject to cross-examination or rebuttal. Late filed exhibits must be accompanied by a motion to reopen the record and supported by appropriate affidavits. Only for good cause shown, in the face of an objection, will such exhibits be marked and admitted into evidence.

E. Record Requests

Responses to record requests are written substitutes to oral answers where fault of memory or complexity of subject precludes a responsive answer by the witness at the hearing. As such, they are part of the record and the evidence, unless challenged as unresponsive and expunged in whole or in part. Record requests shall not be used as a substitute for discovery or as a substitute for re-direct examination. Objections to record requests shall be made at the time the request is made, and in no event later than the end of the next Department working day.

The ordinary time for response to a record request will be the fifth business day following the day on which the request is made, unless otherwise indicated by the Arbitrator.

F. Out-of-State Citations

The parties are to provide a copy of any out-of-state document on which the parties rely. The out-of-state document should be included with any filing which cites to that document.

G. Hearing Arrangements

Evidentiary hearings will be conducted at the offices of the Department at One South Station, Boston, Massachusetts. These hearings will begin each day at 10:00 a.m., according to a schedule to be established by the Arbitrator. Adjustments to the stated hearing arrangements may be made at the discretion of the Arbitrator.

July 5, 2006

/s/

Date

Carol Pieper, Arbitrator

cc: Service List